

## Fiscal Service, Treasury

## § 223.20

such failure, and provide opportunity to the company to respond, and

(b) In those cases where the public interest in the constant financial stability of such a company allows, also provide opportunity to the company to demonstrate or achieve compliance with those requirements. The Secretary shall revoke a company's certificate of authority with advice to it if:

(1) The company does not respond satisfactorily to his notification of noncompliance, or

(2) The company, provided an opportunity to demonstrate or achieve compliance, fails to do so.

[34 FR 20189, Dec. 24, 1969. Redesignated at 38 FR 22779, Aug. 24, 1973, as amended at 42 FR 8637, Feb. 11, 1977]

### § 223.18 Performance of agency obligations.

(a) Every company shall promptly honor its bonds naming the United States or one of its agencies or instrumentalities as obligee. If an agency's demand upon a company on behalf of the agency or laborers, materialmen, or suppliers (on payment bonds), for payment of a claim against it is not settled to the agency's satisfaction, and the agency's review of the situation thereafter establishes that the default is clear and the company's refusal to pay is not based on adequate grounds, the agency may make a report to the Secretary of the Treasury, including a copy of the subject bond, the basis for the claim against the company, a chronological resume of efforts to obtain payment, a statement of all reasons offered for non-payment, and a statement of the agency's views on the matter.

(b) On receipt of such report from the Federal agency the Secretary will, if the circumstances warrant, notify the company concerned that the agency report may demonstrate that the company is not keeping and performing its contracts and that, in the absence of satisfactory explanation, the company's default may preclude the renewal of the company's certificate of authority, or warrant prompt revocation of the existing certificate. This notice will provide opportunity to the company to demonstrate its qualification

for a continuance of the certificate of authority.

[34 FR 20189, Dec. 24, 1969. Redesignated at 38 FR 22779, Aug. 24, 1973, as amended at 42 FR 8638, Feb. 11, 1977]

### § 223.19 Informal hearing on agency complaints.

(a) *Request for informal hearing.* If a company determines that the opportunity to make known its views, as provided for under § 223.18(b), is inadequate, it may, within 20 business days of the date of the notice required by § 223.18(b), request, in writing, that the Secretary of the Treasury convene an informal hearing.

(b) *Purpose.* As soon as possible after a written request for an informal hearing is received, the Secretary of the Treasury shall convene an informal hearing, at such time and place as he deems appropriate, for the purpose of determining whether revocation of the company's certificate of authority is justified.

(c) *Notice.* The company shall be advised, in writing, of the time and place of the informal hearing and shall be directed to bring all documents, records and other information as it may find necessary and relevant to substantiate its refusal to settle the claims made against it by the Federal agency making the report under § 223.18(a).

(d) *Conduct of hearings.* The hearing shall be conducted by a hearing officer appointed by the Secretary. The company may be represented by counsel and shall have a fair opportunity to present any relevant material and to examine the agency's evidence. Formal rules of evidence will not apply at the informal hearing.

(e) *Report.* Within 30 days after the informal hearing, the hearing officer shall make a written report to the Secretary setting forth his findings, the basis for his findings, and his recommendations. A copy of the report shall be sent to the company.

[38 FR 22779, Aug. 24, 1973]

### § 223.20 Final decisions.

If, after review of the case file, it is the judgment of the Secretary that the complaint was unfounded, the Secretary shall dismiss the complaint by

## § 223.21

the Federal agency concerned and shall so notify the company. If, however, it is the judgment of the Secretary that the company has not fulfilled its obligations to the complainant agency, he shall notify the company of the facts or conduct which indicate such failure and allow the company 20 business days from the date of such notification to demonstrate or achieve compliance. If no showing of compliance is made within the period allowed, the Secretary shall either preclude renewal of a company's certificate of authority or revoke it without further notice.

[38 FR 22779, Aug. 24, 1973, as amended at 42 FR 8638, Feb. 11, 1977]

### § 223.21 Reinstatement.

If, after one year from the date of the expiration or the revocation of the certificate of authority, under § 223.20 a company can show that the basis for the non-renewal or revocation has been eliminated and that it can comply with the requirements of 6 U.S.C. 6-13 and the regulations in this part, a new certificate of authority shall be issued without prejudice.

[38 FR 22779, Aug. 24, 1973, as amended at 42 FR 8638, Feb. 11, 1977]

### § 223.22 Fees for services of the Treasury Department.

(a) Fees shall be imposed on collected, for the services listed in paragraphs (a) (1) through (4) of this section which are performed by the Treasury Department, regardless of whether the action requested is granted or denied. The payee of the check or other instrument shall be the Financial Management Service, Treasury Department. The amount of the fee will be based on which of the following categories of service is requested:

(1) Examination of a company's application for a certificate of authority as an acceptable surety on Federal bonds or for a certificate of authority as an acceptable reinsuring company on such bonds (see § 223.2);

(2) Examination of a company's application for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States (see § 223.12(a) and (b));

## 31 CFR Ch. II (7-1-98 Edition)

(3) Determination of a company's continuing qualifications for annual renewal of its certificate of authority (see § 223.3); or

(4) Determination of a company's continuing qualifications for annual renewal of its authority as an admitted reinsurer (see § 223.12(c)).

(b) In a given year a uniform fee will be collected from every company requesting a particular category of service, e.g., determination of a company's continuing qualifications for annual renewal of its certificate of authority. However, the Treasury Department reserves the right to redetermine the amounts of fees annually. Fees are determined in accordance with Office of Management and Budget Circular A-25, as amended.

(c) Specific fee information may be obtained from the Assistant Commissioner, Comptroller at the address shown in § 223.2. In addition, a notice of the amount of a fee referred to in § 223.22(a) (1) through (4) will be published in the FEDERAL REGISTER as each change in such fee is made.

[43 FR 12678, Mar. 27, 1978, as amended at 49 FR 47001 and 47002, Nov. 30, 1984]

## PART 224—FEDERAL PROCESS AGENTS OF SURETY COMPANIES

Sec.

224.1 Statutory provision.

224.2 Appointment of process agents.

224.3 Powers of attorney appointing process agents; with whom filed.

224.4 Power of attorney; form.

224.5 Process agents; termination of authority.

224.6 United States district courts; location of divisional offices.

AUTHORITY: 31 U.S.C. 9306.

### § 224.1 Statutory provision.

The rules and regulations in this part are prescribed for carrying into effect 31 U.S.C. 9306.

[61 FR 26840, May 29, 1996]

### § 224.2 Appointment of process agents.

(a) *Generally.* Companies should especially note that the law prohibits the doing of business under the provisions of this act beyond the State under whose laws it was incorporated and in